



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 2266-00
7 April 2000

MAJ [REDACTED] USMC
[REDACTED]
[REDACTED]

Dear Major [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your contested fitness report for 1 August 1995 to 31 July 1996.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 28 March 2000 with enclosure, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 24 March 2000, copies of which are attached. They also considered your rebuttal letter dated 29 March 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. You have established that the Fiscal Year (FY) 2001 Lieutenant Colonel Selection Board was aware that you had completed Command and Staff College. However, they agreed with paragraphs 3.b and c of the MMOA-4 advisory opinion in finding that your selection by the FY 2001 Lieutenant Colonel Selection Board would have been definitely unlikely, even with a corrected fitness report record. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

2266-00

IN REPLY REFER TO:

1610
MMER
28 Mar 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR APPLICATION IN THE CASE OF MAJOR [REDACTED]
[REDACTED], USMC

Encl: (1) Copy of CMC ltr 1610 MMER/PERB of 23 Mar 00
(2) CMC Advisory Opinion 1610 MMOA-4 of 24 Mar 00
(3) Copy of CMC ltr 1610 MMER of 28 Mar 00

1. As evidenced by enclosure (1), PERB removed from Major [REDACTED]'s official military record, the fitness report for the period 950801 to 960731 (AN).
2. We defer to BCNR on the issue of Major [REDACTED] request for the removal of his failure of selection to the grade of Lieutenant Colonel. Enclosure (2) is furnished to assist in resolving that matter.
3. By enclosure (3), this Headquarters provided Major [REDACTED] with a copy of the Advisory Opinion contained at enclosure (2).

[REDACTED]
[REDACTED]
[REDACTED] GEN

Head, Performance Evaluation
Review Branch
Personnel Management Division
By direction of the Commandant
of the Marine Corps



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

2266-00

IN REPLY REFER TO:
1610
MMER/PERB
23 MAR 2000

From: Commandant of the Marine Corps
To: [REDACTED] USMC

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your Naval record. Having reviewed all the facts of record, the Board has directed that your Naval record will be corrected by removing therefrom the following fitness report(s):

<u>Date of Report</u>	<u>Reporting Senior</u>	<u>Period of Report</u>
8 Aug 96	[REDACTED]	950801 to 960731 (AN)

2. There will be inserted in your Naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events which may have precipitated it, unless such events are otherwise properly a part of the official record. The Automated Fitness Report System (the data base which generates your Master Brief Sheet) will be corrected accordingly.

3. The Commandant of the Marine Corps is not empowered to grant or deny the removal of failure(s) of selection from a Naval record. Accordingly, your case will be forwarded to the Board for Correction of Naval Records (BCNR) for consideration of that issue.

[REDACTED]
By direction



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VIRGINIA 22134-5103

2266-00

IN REPLY REFER TO:

1600
MMOA-4
24 Mar 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: BCNR PETITION FOR [REDACTED]
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of
[REDACTED] USMC
[REDACTED]

1. Recommend disapproval of [REDACTED]'s request for removal of his failure of selection.

2. Per the reference, we reviewed Major [REDACTED] record and petition. He failed selection on the FY01 USMC Lieutenant Colonel Selection Board. Subsequently, he successfully petitioned the PERB for removal of the Annual fitness report of 950801 to 960731. Major [REDACTED] requests removal of his failure of selection.

3. In our opinion, the favorable PERB action enhances the competitiveness of the record, but not significantly enough to warrant removal of the failure of selection. Moreover, Major [REDACTED]'s record contains other areas of competitive concern that more than likely led to his failure of selection.

a. **Professional Military Education.** [REDACTED] did not complete the PME requirement for his grade until after the FY01 Board had convened. Therefore, the FY01 Board did not consider him PME complete.

b. **Value & Distribution in Command.** While serving in a Company Command billet, [REDACTED] has nine officers ranked above him and eleven below, placing him mid-pack. Overall, he has twenty-two above and twenty-one below, placing him below mid-pack.

c. **Observed Performance as a Major.** [REDACTED] has only two years of observed performance as a major while most of his contemporaries have about four years.

Subj: BCNR PETITION FOR MAJOR [REDACTED]
[REDACTED] USMC

4. In summary, the favorable PERB action enhances the competitiveness of [REDACTED] record, but not significantly enough to warrant removal of his failure of selection. Moreover, the record contains other areas of competitive concern that more than likely led to his failure of selection. Therefore, we recommend disapproval of [REDACTED] request for removal of his failure of selection.

5. Point of contact is Lieutenant Colonel [REDACTED]
[REDACTED]

[REDACTED]
Lieutenant Colonel, U.S. Marine Corps
Head, Officer Career Counseling and
Evaluation Section
Officer Assignment Branch
Personnel Management Division